

TENNESSEE DEPARTMENT OF HEALTH AND ENVIRONMENT



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July 31, 1989

*Whitebridge Rd.  
Nashville*  
Richard S. Saad .....CERTIFIED MAIL  
4000 Keeley Drive RECEIPT #P 685 256 436  
Antioch, Tennessee 37013

John P. Saad, Jr. ....CERTIFIED MAIL  
121 Rader Drive RECEIPT #P 838 800 252  
Nashville, Tennessee 37203

John P. Saad & Sons, Inc. ....CERTIFIED MAIL  
Richard S. Saad RECEIPT #P 838 800 375  
4000 Keeley Drive  
Antioch, Tennessee 37013

Norman Rollins .....CERTIFIED MAIL  
19th Fl. L&C Towers RECPT. #838800372  
Nashville, Tennessee 37219

Kathy Saad .....CERTIFIED MAIL  
5831 Pettus Road RECPT. #838800269  
Antioch, Tennessee 37013

Ellis J. Saad .....CERTIFIED MAIL  
5831 Pettus Road RECPT #685256449  
Antioch, Tennessee 37013

776-1283

RE: LEASING MANAGEMENT SYSTEMS, INC.,  
JOHN P. SAAD & SONS, INC.,  
JOHN P. SAAD, JR., RICHARD S. SAAD, ,  
KATHY SAAD AND ELLIS J. SAAD  
INDIVIDUALLY  
CASE NO.: 89-3172

Enclosed please find an Order issued by Commissioner J.W. Luna on behalf of the Tennessee department of Health and Environment in the matter above. Please read it carefully and pay speical attention to the NOTICE OF RIGHTS section.

If you or your attorney have any questions, please feel free to contact me.

Sincerely,

*E. Joseph Sanders*

E. Joseph Sanders  
Assistant General Counsel

EJS/plj  
Enclosure

xc: Linda Tidwell  
Bill Penny  
George Walter

19-533 legal

STATE OF TENNESSEE  
DEPARTMENT OF HEALTH AND ENVIRONMENT

IN THE MATTER OF:	)	
	)	
LEASING MANAGEMENT SYSTEMS, INC.,	)	DIVISION OF SUPERFUND
JOHN P. SAAD & SONS, INC.,	)	NO. 89-3172
JOHN P. SAAD, JR., RICHARD S. SAAD,	)	
KATHY SAAD and ELLIS J. SAAD	)	
INDIVIDUALLY	)	

COMMISSIONER'S ORDER

Comes now J. W. Luna, Commissioner of the Tennessee Department of Health and Environment, and states that:

PARTIES

I.

J. W. Luna is the duly appointed Commissioner of the Tennessee Department of Health and Environment (the "Department").

II.

John P. Saad & Sons, Inc. was formerly a Tennessee corporation. Its agent for service of process is Richard S. Saad, 4000 Keely Drive, Antioch, Tennessee 37013.

III.

Leasing Management Systems, Inc. was formerly a Tennessee corporation. Its agent for service of process is Norman Rollins, 19th Floor, L&C Towers, Nashville, Tennessee 37219.

IV.

John P. Saad, Jr. is a resident citizen of Davidson County Tennessee. Process may be served on him at 121 Rader Drive, Nashville, Tennessee.

## V.

Richard S. Saad is a resident citizen of Davidson County, Tennessee. Process may be served on him at 4000 Keeley Drive, Antioch, Tennessee 37013.

## VI.

Kathy Saad is a resident citizen of Davidson County, Tennessee. Process may be served on her at 5831 Pettus Road, Antioch, Tennessee 37013.

## VII.

Ellis J. Saad is a resident citizen of Davidson County, Tennessee. Process may be served on him at 5831 Pettus Road, Antioch, Tennessee 37013.

JURISDICTION

## VIII.

Pursuant to T.C.A. Section 68-46-206, the Commissioner is authorized to order any liable or potentially liable party to investigate and identify possible inactive hazardous substance sites, and to furnish information relating to possible hazardous substances. The Commissioner is further authorized by this section to order any liable or potentially liable party to contain, clean up, monitor, and maintain inactive hazardous substance sites. Additionally, pursuant to T.C.A. Section 68-46-215 the Commissioner may issue an Order for Correction to an appropriate person if any provision of Part 2 of the Hazardous Waste Management Act of 1983 is not being carried out, or if effective measures are not being taken to comply with any provisions of said Part.

## IX.

Respondents are "liable parties" as defined in T.C.A. Section 68-46-202(4), which provides:

Liable Party means:

(a.) The owner or operator of an inactive

## XIII.

Leasing Management Systems, Inc. owned the site from October 1981 until August 1988. It had acquired the site from John P. Saad & Sons, Inc.

## XIV.

John P. Saad & Sons, Inc. acquired the site from Rosalie Joseph Saad on June 17, 1975. Rosalie Joseph Saad had owned the site since October 1, 1915.

## XV.

From at least 1971 until at least 1983, John P. Saad, Jr., Ellis Saad, and Richard Saad (the "Saad's") operated a business known as John P. Saad & Sons, Inc. at the site. The Saad's collected and transported to the site waste oil, herbicides, paints, lacquers, paint thinner, ink, coolants, methyl ethyl ketone, transformer oil (believed to contain PCB's) and a variety of other acids, caustics, and solvents. These materials are hazardous substances within the meaning of T.C.A. Section 68-46-202(3).

## XVI.

It is the information and belief of the Department that as a regular part of their business the Saads disposed of thousands of gallons of hazardous substances directly onto the ground at the site.

## XVII.

It is the further information and belief of the Department that a large quantity of hazardous substances remain on the site, where it was abandoned by the Saads.

## XVIII.

The site is located on a limestone formation and near several large sink holes. Due to crevices in the limestone

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BOOK 7641 PAGE 379

Grantor warrants that Grantor is lawfully seized and possessed of said property, has full power and lawful authority to sell and convey the same, and that Grantor's title is free from any lien or encumbrance whatsoever except as set forth herein. Grantor does further warrant and defend the title thereto against the lawful claims and demands of all persons whomsoever claiming by, through or under Grantor. Grantor makes no warranty of any nature whatsoever with respect to hazardous substances.

IN TESTIMONY WHEREOF, Grantor has hereunto set his signature, this 12 day of August, 1988.

Thomas Michael Giles  
Thomas Michael Giles

STATE OF TENNESSEE:  
COUNTY HAMILTON:

On this 12<sup>th</sup> day of Aug, 1988, before me personally appeared Thomas Michael Giles, to me known to be the person described in and who executed the foregoing Warranty Deed, and acknowledged that he executed the same as his free act and deed.

Senja Maria Puckering  
Notary Public

My Commission Expires: 11-9-91

STATE OF TENNESSEE:  
COUNTY OF HAMILTON:

I, or we, hereby swear or affirm that the actual consideration for this transfer, or value of the property or interest in property transferred, whichever is greater, is \$ 50,000.00; which amount is equal to or greater than the amount which the property or interest in property transferred would command at a fair and voluntary sale.

W Allen Bennett Affiant - Grantee  
Affiant - Grantee

Sworn to and subscribed before me  
this 31 day of Aug, 1988.

J. Chandler Dep Reg  
Notary Public

My Commission Expires: \_\_\_\_\_

600/special/4/scn  
8/17/88

2920 08/31 0101 03CHECK 171-20

NEW OWNER:  
Ellis and Kathy Saad  
5831 Pettus Road  
Antioch, TN 37013

SEND TAX BILL TO  
Ellis and Kathy Saad  
5831 Pettus Rd.  
Antioch, TN 37013

RECEIVED

APR 31 4 15 PM '88

637.66

SPECIAL WARRANTY DEED

FOR AND IN CONSIDERATION of the sum of Ten (\$10.00) Dollars, cash in hand paid, the receipt of which is hereby acknowledged, Thomas Michael Gulas ("Grantor") has bargained and sold and by these presents does transfer and convey unto Ellis Saad and Kathy Saad ("Grantees"), their heirs and assigns forever, the following described real estate in Davidson County, Tennessee:

Beginning at a point fifty and eighty-five hundredths (50.85) feet measured North 89 deg. 34' East along a line from a point in the center line of tract no. 167-B of the Nashville, Division, formerly the Lewisburg Division of the railroad at Valuation Station 509-48.91 which point is thirty one hundred eighty eight and ninety one hundredths (3188.91) feet measured southwardly along the center line of said tract No. 167-B from Mile Pole 190 from Louisville, Kentucky; thence North 90 deg. 34' East a distance of one hundred forty (140) feet to a point in the West line of Trousdale Road; thence South 0 deg. 36' East along the West line of said road a distance of twenty three (23) feet to a point; thence South 0 deg. 46' East continuing along the West line of said road a distance of one hundred seven (107) feet to a point; thence South 89 deg. 14' West a distance of one hundred fifty (150) feet to a point fifty six (56) feet, more or less measured eastwardly along a radial line from a point in the center line of said tract No. 167-B; thence North 3 deg. 37' East a distance of one hundred thirty one and twenty two hundredths (131.22) feet to the point of beginning, containing forty three hundredths (0.43) acres, more or less.

Being the same property conveyed to Leasing Management Systems, Inc. and Thomas Michael Gulas by deed from Leasing Management Systems, Inc., of record in Book 5853, Page 149, Register's Office for Davidson County, Tennessee and conveyed by Leasing Management Systems, Inc. to Thomas Michael Gulas in Book 7641, Page 376, in the Register's Office of Davidson County. Said transfer and conveyance is subject to any mortgages, liens, or other encumbrances of record.

Subject to any and all outstanding property taxes accrued and unaccrued, including penalties and interest assessed and unassessed. This conveyance is further subject to any and all claims and/or of any governmental entity or natural person whatsoever with respect to hazardous substances and/or environmental wastes.

TO HAVE AND TO HOLD said tract of land, together with all improvements thereon and all appurtenances thereunto belonging to the said Grantees, their heirs and assigns forever.

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This instrument prepared by:  
Grant, Konvalinka & Grubbs, P.C.  
600 Tallan Building  
Chattanooga, TN 37402-2302  
615/756-8400

immediate investigation, removal and disposal of any hazardous substances contained in tanks, and a plan for the immediate investigation, removal and disposal of any other hazardous substances on the site.

5. Upon receipt of the above required plans, the Department may schedule an assessment conference. The Respondents shall attend. The Respondents will be given at least seven (7) days notice prior to this meeting. The purpose of this conference will be to discuss existing data and determine the need for further investigation, remedial action and long-term monitoring and maintenance.

6. Prior to the materials being removed, as required above, the Respondents will provide notice to the Department to allow scheduling of personnel to observe this activity. The Department also reserves the right to observe any other activities required pursuant to this Order.

7. Upon completion of the above activities or at anytime deemed necessary by the Department, the Respondent may be required to attend assessment conferences. The Respondents shall be given notice of any such conferences, in writing, at least seven (7) days prior to the meeting. The Respondents shall furnish or bring with them to any such conferences all data, information, reports, records and/or remedial action plans that are required in the notice.

8. Following any conference held pursuant to item 7 above, if further investigation, remedial action and/or long-term monitoring and maintenance is determined to be necessary by the Department, the respondent shall be so notified. Any such notice shall have the same force and effect as a formal order from the Commissioner and as such may be appealed in the same manner.

9. To the extent practicable, any investigation, identification, containment and clean-up, including monitoring

formation, materials dumped on the surface drain quickly downward into solution channels created by ground water, as much as fifty feet below the surface.

XIX.

The site was placed on the Superfund List (Rule 1200-1-13-.03) through rulemaking which became effective May 23, 1985.

XX.

On May 5, 1989 Division of Superfund personnel observed tanks on site, that contained hazardous substances, including but not limited to heavy metals (such as chromium, lead and zinc) and organics. These tanks were overflowing and leaking.

ORDER

XXI.

WHEREFORE, PREMISES CONSIDERED, I, J. W. Luna, hereby ORDER the Respondents to comply with the following:

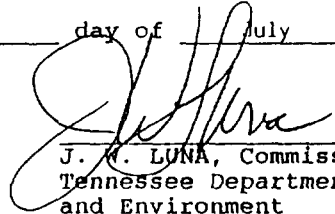
1. Effective immediately, except as otherwise required by this Order, neither the hazardous substance site nor any hazardous substance on or in the site shall be disturbed, moved or removed without written approval by the Department.
2. Security shall be provided for the site within three (3) days of the Respondents' receipt of this Order.
3. Within five (5) days of receipt of this Order, Respondents shall submit to the Department (Division of Superfund) a plan to immediately provide and implement a means for preventing leakage or overflow of the contents of the tanks to the environment and to safely remove and contain all escaped tank liquids which are currently collected in low areas.
4. Within thirty (30) days of the issuance of this Order, the Respondent shall submit a plan to the Department for the

and maintenance, shall be consistent with the National Contingency Plan promulgated pursuant to Section 105 of Public Law 96-510.

#### RESERVATION OF RIGHTS

This Order shall not be construed as waiving any right or authority available to the Commissioner to assess the Respondents for liability for costs, expenditures, civil penalties or damages incurred by the State. The right to order further investigation, remedial action and/or monitoring and maintenance is also specifically reserved.

Issued this 31st day of July, 1989.

  
J. W. LUNA, Commissioner  
Tennessee Department of Health  
and Environment

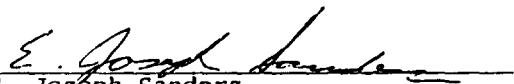
#### NOTICE OF RIGHTS

The Respondents are hereby advised that in accordance with T.C.A. Section 68-46-215 they may secure a review of the necessity for or reasonableness of this Order by filing with the Commissioner a written petition setting forth the grounds and reason for objection and asking for a hearing before the Solid Waste Disposal Control Board. The Order shall become final and not subject to review unless the Respondents petition for a hearing within thirty (30) days after the date this Order is served. Hearings will be conducted in accordance with the Tennessee Uniform Administrative Procedures Act.

Persons failing, neglecting, or refusing to comply with this Order may be subject to civil and criminal penalties as provided in T.C.A. Section 68-46-213. This section states in part that, "any person failing to file any reports, records or documents required pursuant to this part; who fails, neglects, or refuses

to comply with any order issued pursuant to this part; or who knowingly gives or causes to be given any false information in any report, records, or documents required pursuant to this part shall be subject to a fine of up to ten thousand dollars (\$10,000) or imprisonment of up to eleven (11) months and twenty-nine (29) days, or both. In addition, such persons shall be subject to a civil penalty of up to ten thousand dollars (\$10,000) . . . . Each day such violation continues shall constitute a separate offense."

Correspondence regarding this Order should be addressed to E. Joseph Sanders, Assistant General Counsel, TERRA Building, Sixth Floor, 150 Ninth Avenue North, Nashville, Tennessee 37219-5404 or telephone (615)741-0657.

  
E. Joseph Sanders  
Assistant General Counsel

EJS/GW/E3179187